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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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04/06/2001

Kevin J. Negus

034421-098

6346

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05/18/2005

EXAMINER

WARE, CICELY Q

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ART UNIT

PAPER NUMBER

2634

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/828,267

Applicant(s)

NEGUS, KEVIN J.

Examiner

Cicely Ware

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on amendment filed on 12/02/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/02/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 3-5 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1-10 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure, which goes to make up the device, must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Khayrallah et al. (US Patent 6,490,314).

With regard to claim 1, Khayrallah et al. discloses in (Fig. 3) a frequency-hopping wireless communication system using a plurality of low bandwidth hops (76, 78, 80, 82, 84, 86, 88, 90, 92) and high bandwidth hops (70, 72, 74), wherein each bandwidth hop has a frequency-hopping center frequency and wherein more center frequencies are available for use for the low bandwidth hops than by the high bandwidth hops (col. 1, lines 44-49, col. 2, lines 47-63, col. 4, lines 3-4, 19-32, col. 5, lines 66-67, col. 6, lines 1-49).

### **Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khayrallah et al. (US Patent 6,490,314) as applied to claim 1, in view of Pezzlo et al. (US Patent 6,049,561).

(1) With regard to claim 3, claim 3 inherits all the limitations of claim 1. However Khayrallah et al. does not disclose a pseudo-random sequence generator is provided at a transmitter and a receiver.

However Pezzlo et al. discloses a pseudo-random sequence generator is provided at a transmitter and a receiver (col. 1, lines 32-39).

Therefore it would have been obvious to one of ordinary skill in the art to modify Khayrallah et al. in view of Pezzlo et al. to incorporate a pseudo-random sequence generator is provided at a transmitter and a receiver in order for the receiver to be able to maintain track of and thereby maintain itself tuned to, the transmitter pseudo randomly changing carrier frequency (Pezzlo et al., col. 1, lines 39-41).

(2) With regard to claim 4, claim 4 inherits all the limitations of claim 1. Pezzlo et al. further discloses wherein the same pseudo-random sequence generator is used for both high and low bandwidth signals (col. 4, lines 2-9).

(3) With regard to claim 5, claim 5 inherits all the limitations of claim 4. Pezzlo et al. further discloses wherein a certain pseudo-random sequence generation value corresponds to a different low bandwidth frequency center than high frequency bandwidth center (col. 4, lines 6-15).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cicely Ware whose telephone number is 703-305-8326. The examiner can normally be reached on Monday – Friday, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 703-305-4714. The fax phone numbers

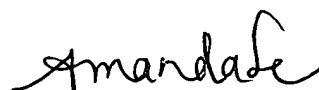
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for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

*Cicely Ware*

cqw  
May 1, 2005

A handwritten signature in black ink, appearing to read "Amanda T. Le". The signature is fluid and cursive, with a large initial "A" and a stylized "L".

AMANDA T. LE  
PRIMARY EXAMINER